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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,910	07/11/2003	Kazuyuki Endoh	101154-00013	2441

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EXAMINER

STONE, JENNIFER A

ART UNIT	PAPER NUMBER
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2636

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,910

Applicant(s) 

ENDO, KAZUYUKI

Examiner

Jennifer A Stone

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Drawings

1. The drawings were received on January 27, 2005. These drawings are acceptable; however, Applicant is reminded that **the entire set of drawings** including the replacement sheets must be submitted. Fax the entire set of drawings to (571) 273.2976.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Baatz et al. (U.S. 4,706,083).

For claim 1, Baatz discloses a fuel mileage meter for a vehicle, comprising: a fuel mileage display for displaying a rate of fuel consumption of the vehicle (col 2, Ins 57-59; col 3, Ins 62-68; col 4, Ins 1 and 2; Fig. 1, item 90); and a control unit for controlling (col 4, Ins 32-38; Fig. 1, items 40 and 60), based on a distance traveled (col 3, Ins 62-64) and an amount of fuel consumed only after a speed of the vehicle exceeds a predetermined threshold (col 5, Ins 21-28 and 32-39; Fig. 2, items 18 and 122) display of the fuel consumption rate on the fuel mileage display (Fig. 1, items 40 and 90; Fig. 2).

For claim 3, Baatz discloses a fuel mileage display provided at a meter indicator portion (col 3, Ins 66-68; Figure 1, items 80 and 90).

Response to Arguments

4. Applicant's arguments filed January 27, 2005 have been fully considered but they are not persuasive:

The Applicant argues as follows:

The calculated performance value is based not only on data collected after the vehicle speed exceeds the threshold value but also on data collected before the vehicle speed exceeds the threshold value. Baatz teaches collecting data while the engine is idling or the vehicle is at a stop. In addition, Baatz does not disclose a control unit for controlling, based on a distance traveled and an amount of fuel consumed only after a speed of the vehicle exceeds a predetermined threshold.

The Applicant's argument is irrelevant because the limitation of claim 1 includes displaying a rate of fuel consumption of the vehicle...only after a speed of the vehicle exceeds a predetermined threshold. Examiner admits that data is collected before and after the vehicle speed exceeds the threshold value and also while the engine is idling or the vehicle is at a stop, but does not display that information on the display because the processor (Fig. 1, item 40; Fig. 2) does not produce a signal to a display when the performance value is equal to one (when the vehicle is not exceeding a predetermined threshold - Fig. 2, item 120). When the performance value is equal to one, the cycle at item "A", Fig. 2 repeats and does not calculate performance values of item 122. In addition, reference Baatz Fig. 2 and Fig. 8 of the present invention. The present invention determines if the vehicle exceeds a predetermined threshold (item ST14). If

the vehicle exceeds a predetermined threshold value, additional analysis determining fuel rate consumption is performed between ST15 and ST20 (the display). Similarly, Baatz discloses the same procedure for determining fuel rate consumption: If the vehicle exceeds a predetermined threshold value (18), additional analysis determining fuel rate consumption is performed at 122 and provides information to the driver such as instantaneous vehicle fuel economy. This information is only provided to the driver if the speed is greater than a predetermined threshold (col 5, lns 32-45; Fig. 2, items 18 and 122).

Allowable Subject Matter

5. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Di Nunzio (US 4,544,909) discloses a fuel consumption indicator for a vehicle where vehicle speeds determine fuel consumption rate.

Bayer et al. (US 4,523,457) discloses an optimal fuel consumption rate display such that if an engine speed exceeds a predetermined threshold, LED's will illuminate to notify the driver of an optimal fuel consumption rate.

Sakaemura (US 5,422,625) discloses a fuel consumption warning if an engine speed exceeds a predetermined threshold.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Stone whose telephone number is (571) 272.2976. The examiner can normally be reached on M-F from 8:00am to 4:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass, can be reached at (571) 272.2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer Stone
April 15, 2005



JEFFERY HOFSSASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600